

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
SMALL JUSTICE LLC,)	
RICHARD A. GOREN,)	
and,)	
CHRISTIAN DUPONT dba)	
ARABIANIGHTS-BOSTON)	
MASSACHUSETTS)	
)	
Plaintiffs,)	
)	CIVIL ACTION NO. 1:13-cv-11701-DJC
v.)	
)	
XCENTRIC VENTURES LLC,)	
Defendant.)	
_____)	

REPLY TO COUNTERCLAIM

Comes now the plaintiff Christian DuPont dba Arabianights-Boston
Massachusetts and replies to the Counterclaim of the defendant XCENTRIC VENTURES
LLC as follows.

1. Admitted.
2. Denied.
3. Admitted.
4. Admitted.
5. Defendant in counterclaim lacks information or knowledge sufficient to form
a basis to either admit or deny and states further Ripoff Report is “an interactive
website” which holds itself out as “an online consumer advocacy forum that
allows users to post free complaints called ‘reports’ about companies and/or
individuals who they feel have wronged them in some manner.”
6. Admitted.

7. Denied.
8. Defendant in counterclaim lacks information or knowledge sufficient to form a basis to either admit or deny and states further that Exhibit B to the First Amended Complaint, defendant's "Terms & Conditions" contains a paragraph 11 specifying Arizona as a venue.
9. Defendant in counterclaim lacks information or knowledge sufficient to form a basis to either admit or deny and states further that Exhibit B to the First Amended Complaint, defendant's "Terms & Conditions" contains a paragraph 6 captioned "Proprietary Rights/Grant of Exclusive Rights."
10. Defendant in counterclaim lacks information or knowledge sufficient to form a basis to either admit or deny and states further that Exhibit B to the First Amended Complaint, defendant's "Terms & Conditions" contains a paragraph 3 captioned "Indemnity."
11. Admitted.
12. Defendant in counterclaim admits he is the Author and denies the remaining allegations of paragraph 12 of the Counterclaim.
13. Denied.
14. Denied.

COUNT ONE

15. Defendant in counterclaim repeats and restates his responses to the foregoing paragraphs 1-14.
16. Defendant in counterclaim admits he is the Author and denies the remaining allegations of paragraph 16 of the Counterclaim.
17. Denied.

18. Denied.

19. Denied.

20. Defendant in counterclaim lacks information or knowledge sufficient to form a basis to either admit or deny.

21. Defendant in counterclaim lacks information or knowledge sufficient to form a basis to either admit or deny.

22. Denied.

23. Denied.

24. Defendant in counterclaim admits he is the Author and denies the remaining allegations of paragraph 24 of the Counterclaim.

25. Denied.

AFFIRMATIVE DEFENSES.

FIRST. The claim is barred by the Statute of Frauds in that there is no signed writing supported by valuable consideration constituting a transfer of copyright ownership.

SECOND. The claim is barred by the Statute of Frauds in that there is no signed writing and it calls for performance not to be performed within one year from the making thereof.

THIRD. The claim is barred in that as a matter of law defendant's website failed to provide sufficient notice of the existence and terms of a purported contract constituting a transfer of copyright ownership and/or whether the act of posting a "free" report manifested the author's assent to a transfer of his copyright ownership.

FOURTH. The claim is barred in that as a matter of law defendant's website failed to provide a meaningful opportunity to review paragraphs 2 through 12 of XCENTRIC's Ripoff Report Membership Terms & Conditions.

FIFTH. As a matter of law there can be no meeting of the minds as to the terms of the purported contract inasmuch, among other things, the offeror, XCENTRIC, retained the right to change the terms and conditions of its Ripoff Report Membership Terms & Conditions at any time and without notice other than the posting of same on XCENTRIC's website.

SIXTH. The claim is barred by the defendant's fraud.

SEVENTH. The claim is barred by the applicable statute of limitations.

EIGHTH. The claim is precluded by a lack of consideration.

WHEREFORE plaintiff Christian DuPont dba Arabianights-Boston Massachusetts and defendant in counterclaim requests the Court to enter a judgment of dismissal of the Counterclaim of XCENTRIC VENTURES LLC.

Respectfully submitted,

CHRISTIAN DUPONT
dba Arabianights-Boston
Massachusetts,
Plaintiff and defendant in counterclaim,

by his attorney,

April 28, 2014

/s/ Richard A. Goren
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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on April 28, 2014.

/s/ Richard A. Goren